IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION No. 115 OF 2004
AND
CRIMINAL WRIT PETITION No. 185 OF 2004

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CRIMINAL WRIT PETITION No. 115 OF 2004

Kantilal Maggilal Kavedia
and others Petitioner

Vs.

The State of Maharashtra Respondent

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CRIMINAL WRIT PETITION No. 185 OF 2004

Dinesh Chandra N. Shah Petitioner

Vs.

The State of Maharashtra Respondent

***

None appeared for petitioners in both petitions

Smt. U. V. Kejariwal, APP for the respondent
in both petitions.

CORAM : R.M.S. KHANDEPARKAR
AND
A.A. SAYED, JJ.

DATE : NOVEMBER 23, 2007.

P.C. [PER R.M.S. KHANDEPARKAR, J.]

. Since same question of law and fact arise in both the petitions, both the petitions are taken up

together for hearing. In both petitions challenge is to the same complaint No. 506 of 2002, registered at Dindoshi Police Station. As none appeared for the petitioners, we have gone through the petitions together with annexurs and heard the learned APP for the respondent. On perusal of the record and hearing the learned APP challenge to the complaint is solely on the ground that petitioner was not present at the site on the day and time of the alleged incident and at the relevant time, he was out of Mumbai.

2. Perusal of complaint discloses that it relates to the commission of offence punishable under the Schedule Castes and Schedule Tribes Act 1989. The complaint specifically states about the alleged incident and prima-facie it reveals a cognizable offence under the said Act. Whether the petitioner was present at the relevant time of not is a question of fact, to be decided on the basis of evidence and the said point cannot be decided in Writ Petition. It could be a good ground for grant of bail but certainly no ground to challange the complaint in Writ Petition. As the petition does not state any other substantial ground, as such to challange the complaint in question and further that the complaint ex-facie discloses cognizable offence, no fault can be found with the concerned authorities having recorded the said

complaint.

3. In the circumstances, we do not find any case for interference in the impugned complaint and hence the petitions fail and are hereby dismissed.

Rule is discharged. No orders as to costs.

Sd/-
[R.M.S. KHANDEPARKAR, J.]

Sd/-
[A. A. SAYED,J.]